

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SECOND APPEALS NO.236, 246, 247, 248, 249, 250, 251,
252, 253, 254, 255, 256, 257, 258, 259, 260, 261,
262, 263, 264, 237, 238, 239, 240, 241, 242, 243, 244
AND 245 OF 1986.

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
Nos. 1 to 5 No

STATE OF GUJARAT

Versus

PRAVINKUMAR VALJIBHAI BHAKTA

Appearance:

1. Second Appeal No. 236 of 1986
Ms.Valikarimwala, AGP for Appellant.
MR BA SURTI for Respondent No. 1
RULE SERVED for Respondent No. 2, 3, 4, 5

2. Second AppealNo 246 of 1986
Ms.Valikarimwala, AGP for Appellant.
R.E.Variava for Respondents.

3. Second Appeal No.247 of 1986.
Ms.Valikarimwala, AGP for Appellant.
Mr.D.N.Pandya for Respondent No.1
Notice served for Respondents No.2-3.

4. Second Appeal No.248 & 249 of 1986.
Ms.Valikarimwala, AGP for Appellant.
Notice not received back for Resp.Nos.1-4.

5.Second Appeal No.250 of 1986.
Ms.Valikarimwala, AGP for Appellant.
Mr.J.C.Sheth for Respondents No.1-2.

6.Second Appeal No.251 of 1986.
Ms.Valikarimwala, AGP for Appellant.
Notice serviced for Respondents No. 1-3.

7.Second Appeal No.252 of 1986
Ms.Valikarimwala, AGP for Appellant.
Notice not received back for Respondents
No.1-2.
Rule served for Respondents No.3/1-3/4.
Mr.J.M.Patel for Respondent No.4.

8.Second Appeal No.253 of 1986.
Ms.Valikarimwala for Appellant.
Mr.R.E.Variava for Respondents.

9.Second Appeal No.254 of 1986.
Ms.Valikarimwala for Appellant.
Mr.D.N.Pandya for Resp.No.1.
Rule served to Resp.Nos.2.
Unserved-Expired to Resp.No.3.

10.Second Appeal No.255 of 1986.
Ms.Valikarimwala for Appellant.
Notice not received back 1,2/1-2/6, 2.

11.Second Appeal No.256 if 1986.
Ms.Valikarimwala for Appellant.
Mr.P.B.Majmudar for Resp.No.1.
Unserved-Expired (N): 2.

12.Second Appeal No.257 of 1986.
Ms.Valikarimwala for Appellant.
Notice not received back for Resp.Nos.1-3.

13.Second Appeal No.258 of 1986.
Ms.Valikarimwala for Appellant.
Mr.B.A.Surti for Resp.Nos.1,4-5.
Rule served for Resp.Nos.2-3.

14.Second Appeal No.259 of 1986.
Ms.Valikarimwala for Appellant.
Notice served for Resp. Nos.1-2.

Unserved-Expired(N):3.

15.Second Appeal No.260 of 1986

Ms.Valikarimwala for Appellant.

Unserved-Expired (N) :1

Notice not recd.back :2

16.Second Appeal Nos.261,262,263 & 264 of 1986.

Ms.Valikarimwala for Appellant.

S.A.Nos.261,263 & 264/86 respondents served.

S.A.No.262/86 notice not received back.

17.Second Appeal No.237 of 1986.

Ms.Valikarimwala for Appellant.

Rule served : 1

Mr.S.H.Sanjanwala for 2-5.

18.Second Appeal No.238 of 1986.

Ms.Valikarimwala for Appellant.

Unserved-Expired (N) 1,3-4.

Notice served to Resp.No.2.

19.Second Appeal No.239 of 1986.

Ms.Valikarimwala for Appellant.

Mr.D.N.Pandya for Resp.No.1, :2,4/1-4/2.

Rule served to Resp.2/1-4/1, 5-8.

20.Second Appeal No.240/86.

Ms.Valikarimwala for Appellant.

Mr.D.N.Pandya for Resp.No.1.

Notice not received back for Resp.Nos.2-3.

21.Second Appeal No.241 of 1986.

Ms.Valikarimwala for Appellant.

Respdts.Nos. 1,1/1-1/3 served.

Notice not recd.back for Respdts.2/1-2/6.

22.Second Appeal No.242 of 1986.

Ms.Valikarimwala for Appellant.

Served by affixing for Resp.No.1

Unserved-Expired (N) : 2.

Notice not recd.back : 3.

23.Second Appeal No.243 of 1986.

Ms.Valikarimwala for Appellant.

Notice not received back 1-3.

Notice not received back : 4.

24.Second Appeal No.244 of 1986.

Ms.Valikarimwala for Appellant.

Mr.R.E.Variava for Respondents.

25.Second Appeal No.245 of 1986.
Ms.Valikarimwala for Appellant.
Notice not recd.back for Respdts.Nos.1-6.

CORAM : MR.JUSTICE D.C.SRIVASTAVA
Date of decision: 29/04/98

COMMON ORAL JUDGEMENT

The above appeals involving common questions of law and fact are proposed to be disposed of by common judgment.

These appeals are unnecessarily enhancing pendency of this High Court. Controversy involved in these appeals has already been settled by two decisions of this Court and one such decision was confirmed by the Apex Court.

The respondents in some of the appeals have been served but they are not interested hence they are not represented. In some of the appeals respondents have not been served and in other appeals some of the respondents have expired. However, it is not necessary to issue fresh notice to unserved respondents or direct the State of Gujarat to take steps for substitution of legal representatives of some of the deceased respondents especially when there is no life at all in these appeals.

Only substantial question of law involved in these appeals is whether in the facts and circumstances of the case, the lower court were right in law that the suit transactions are not barred by Section 73-A of the Bombay Land Revenue Code.

The suits were filed by different owners for which notification under section 75-A of Bombay Land Revenue Code was issued by the Government and the transfers made after said notification were held to be invalid and consequent orders were passed by the Revenue Authorities. Purchasers filed suits in respect of their right to the land purchased and the suit was decreed holding that the aforesaid notification does not apply to the land for which no survey settlement was made under

the provisions of the Bombay Land Revenue Code but where survey settlement was already made during the period of erstwhile princely State. It is undisputed that in all these cases survey settlement took place during the period of erstwhile princely State. The question whether such survey settlement will be deemed to be survey settlement under the provisions of the Bombay Land Revenue Code or not, was considered in two decisions rendered by this Court one in Special Civil Application No.1191 of 1974 decided on 2.2.1978 and the other reported decision in Devshankar Ambalal Jani Vs. State of Gujarat 1997(1) GCD 705(Guj.). In both these cases it was held that where survey settlement was done during the period of Ex.Princely State and no subsequent survey settlement was done under the provisions of the Bombay Land Revenue Code earlier survey settlement will be deemed to be survey settlement under the provisions of Bombay Land Revenue Code and as such Section 73-A or notification issued under the said section will not apply to such areas of land which were covered under the old survey settlement during the period of Ex.Princely State. Consequently the orders of the Revenue Authorities were quashed in both the aforesaid cases. Judgment rendered by this Court in Special Civil Application No. 1191 of 1974 was confirmed by the Apex Court in the case of Thakoresri Naharsinghji Dolatsinghji Vs. State of Gujarat and Others A.I.R. 1980 S.C. 59. Since the matter has already concluded by two decisions of this Court and one decision of the Apex Court now the so called substantial question of law formulated in these appeals hardly survives. It has therefore, to be held that the two Courts below did not commit any illegality in holding that the suit transactions were not barred by Section 73-A of Bombay Land Revenue Code. All the appeals are therefore without merit and have to be dismissed. The appeals mentioned above are hereby dismissed. In the circumstances of the case no order as to costs.

Sd/-

(D.C.Srivastava, J)

m.m.bhatt